Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
2000 Biennial Regulatory Review --	)	CC Docket No. 00-199
Comprehensive Review of the	)	
Accounting Requirements and	)	
ARMIS Reporting Requirements for	)	
Incumbent Local Exchange Carriers:	)	
Phase 2	)	
	)	
Amendments to the Uniform System	)	CC Docket No. 97-212
of Accounts for Interconnection	)	
	)	
Jurisdictional Separations Reform and	)	CC Docket No. 80-286
Referral to the Federal-State Joint Board	)	

PETITION OF BELLSOUTH, SBC AND VERIZON FOR RECONSIDERATION OF REPORT AND ORDER IN CC DOCKET NOS. 00-199, 97-212, AND 80-286

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PETITION OF BELLSOUTH, SBC AND VERIZON FOR RECONSIDERATION OF REPORT AND ORDER IN CC DOCKET NOS. 00-199, 97-212, AND 80-286[1]

This petition for reconsideration ("PFR") is filed on behalf of BellSouth Corporation and its wholly owned affiliates ("BellSouth"), SBC Communications Inc. and its wholly owned affiliates ("SBC"), and the Verizon telephone companies (collectively, "Petitioners").[2] Petitioners request that the Commission amend three portions of the *Report and Order*, as follows:

Eliminate the new wholesale and retail subaccounts to Account 6620 (Services), Report and Order, ¶ 64. Petitioners ask that these newly created subaccounts be eliminated because they are not necessary in the public interest, conflict with existing Commission regulations, and are extremely burdensome to implement. The Commission

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1 *See Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286*, 16 FCC Rcd 19911 (2001) ("*Report and Order*").

2 The Verizon telephone companies ("Verizon") are the affiliated local telephone companies of Verizon Communications Corp., and are listed in Attachment A.

offered only a single reason for creating these accounts, but even in that instance the subaccounts provide no regulatory benefit. To avoid imposing potentially unnecessary expenses while the Commission is considering the PFR, Petitioners request that the Commission enter an interim order delaying implementation of the wholesale and retail subaccounts until six months after publication in the Federal Register of the Commission's final ruling on the PFR.

Change Table II ARMIS 43-07 reporting category "Sheath Kilometers" back to "Loop Sheath Kilometers," Report and Order, ¶ 170. The reporting of "Loop Sheath Kilometers" separate from the non-loop portion is not necessary in the public interest, and requires Petitioners to produce information that they cannot ascertain from existing systems.

Order that the reporting of data related to broadband infrastructure occur through the Local Competition and Broadband Reporting Form 477, rather than through ARMIS 43-07, Report and Order, ¶ 175. The Commission has recognized that carriers regard much of their broadband data as proprietary, and therefore has provided for confidential reporting of this information in Form 477. Petitioners' information regarding broadband infrastructure should be likewise protected. Ordering that this information be reported through Form 477 also will ensure that the Petitioners are not subjected to duplicative or conflicting data requests from the Commission.

I. The Commission Should Eliminate the Newly Created Wholesale and Retail Subaccounts to Account 6620

In the *Report and Order*, the Commission stated that its goal was to eliminate "unnecessary" regulation, as it recognized that "any unnecessary regulation places a corresponding, unnecessary burden on the carriers that are subject to it." *Report and*

Order, ¶ 2. Indeed, under the terms of the Act, the Commission is statutorily required to "repeal or modify any regulation it determines to be no longer necessary in the public interest." 47 U.S.C. § 161. *See also Report and Order*, ¶¶ 1-2. As the District of Columbia Court of Appeals has recently reaffirmed, section 11 "is clear that a regulation should be retained only insofar as it is necessary in, not merely consonant with, the public interest." *Fox Television Stations, Inc. v. FCC*, Case No. 00-1222, 2002 WL 233650, at * 20 (D.C. Cir. Feb. 19, 2002). However, in creating the wholesale and retail subaccounts, the Commission imposed an unnecessary and burdensome regulation on the Class A carriers that are subject to reporting information in those subaccounts.

A. Creating the Wholesale and Retail Subaccounts Is Not Necessary in the Public Interest, and Conflicts With Existing Regulations

The Commission is right to recognize that there is an "important" distinction between wholesale and retail dial tone services. *Report and Order*, ¶ 64. However, while the distinction between wholesale and retail services is important in the marketplace, it is unnecessary and burdensome to carry that wholesale/retail separation into expense accounting for Class A Account 6620 (Services).[3]

The only regulatory function the Commission articulated as being served by the wholesale and retail subaccounts was that they purportedly "will assist the states in developing UNE rates that properly reflect the costs of providing a wholesale service."

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[3] Account 6620 (Services) combines the former 6620 Services account with the three former subaccounts that comprised 6620: 6621 (Call Completion Services), 6622 (Number Services), and 6623 (Customer Services). *See Report and Order,* ¶ 41; *2000 Biennial Regulatory Review – Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 and 3*, 15 FCC Rcd 20568, App. 1 (2000) ("*Phase 2 NPRM*").

Report and Order, ¶ 64. However, the Commission's regulations regarding the pricing of unbundled network elements state that rates for each element shall be established "pursuant to the forward-looking economic cost-based pricing methodology" adopted by the Commission in its *Local Competition Order* – a costing methodology that is divorced from accounting costs. *See generally* 47 C.F.R. § 51.503(b)(1). As a result, the accounting costs to be included in the wholesale and retail subaccounts as ordered by the Commission would not be comparable to the forward-looking costs included in UNE cost studies.

And the costs reflected in Account 6620 are especially unrelated to UNE pricing because the services reflected in two of the three accounts that are part of Account 6620 (Call Completion Services and Number Services), are not required to be offered at UNE rates.[4] When ILECs provide these services on a wholesale basis, there is no link between the price for these wholesale services and pricing for unbundled loops or unbundled local switching. Thus, even if wholesale and retail subaccounts would be helpful for UNE prices in general – which they would not – there is no reason to create wholesale and retail subaccounts for Call Completion Services and Number Services, which are not part of UNE loops and switch ports and are provided and priced independently from UNEs.

Moreover, the creation of wholesale and retail subaccounts conflicts with one of the main premises behind the Commission's accounting for Part 32. Part 32's accounting system largely was based on the principle that, while it may be appropriate to treat

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[4] *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696, ¶ 442 (1999) ("incumbent LECs need not provide access to [operator services and directory assistance] as an unbundled network element").

revenue accounts based on the services provided (such as wholesale vs. retail), expense accounts – such as Account 6620 – should instead be based on the "functions performed by individuals." 47 CFR § 32.2(b). The services encompassed in Account 6620 are provided by the ILECs to both retail and wholesale customers using the same systems and operators. Because they are functionally the same, these expenses are not easily – or appropriately – broken into subaccounts for wholesale vs. retail.

B. There Are Considerable Burdens Associated with Creating Wholesale and Retail Subaccounts to Account 6620

Because the services provided in Account 6620 are not already segregated into wholesale and retail subaccounts in Petitioners' systems, Petitioners would have to undertake special studies to create these subaccounts. There are two possible ways of doing this: through allocation, or by changing internal operating systems and procedures in order to allow for direct assignment. Either alternative would be extremely burdensome and time consuming.

For example, under an allocation method, Petitioners would have to conduct special studies in order to determine not only which portion of services are for wholesale functions and which are for retail functions, but also what portions of billing and collection costs are attributable to each. Because many of the employees performing Account 6620 services provide support to both wholesale and retail customers, even individual employees would have to be subjected to special studies to determine which portion of employees' efforts are related to wholesale vs. retail. Verizon has estimated that it would take at least four to six months to structure and conduct the studies necessary to allocate Account 6620 expenses between wholesale and retail subaccounts, costing close to $3.5 million in additional implementation costs, and over $2.5 million

per year in ongoing costs.[5] The other Petitioners would, of course, have to conduct their own studies, incurring additional regulatory burdens.

If Petitioners instead made operational system changes to segregate the expenses into wholesale and retail, the burden would be even more onerous.[6] In order to separately identify and record the wholesale and retail portions of Account 6620 expenses, Petitioners would have to implement system and procedure changes to effectively segregate into separate wholesale and retail categories functions that today are fully integrated. This would entail separating and duplicating existing billing systems, as well as modification to the operator and directory assistance systems. This is not only cost prohibitive, but could not be accomplished within the current implementation period required by the Commission's order. BellSouth has estimated that it would cost approximately $12.5 million and take 18 months to implement these changes. Again, each Petitioner who undertook this method of accounting would experience similar burdens.

C. The Commission Should Delay Implementation of the Wholesale and Retail Subaccounts Pending Review of the PFR and Phase 3

The *Report and Order* indicates that in Phase 3, the Commission will continue to consider the issues of which new subaccounts are necessary in order to help states with their regulatory needs. *Report and Order*, ¶ 57 & n. 111. The Commission should not require the Petitioners to go through the enormous expense of creating wholesale and

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[5] Consideration of the additional facts set forth in this PFR is "required in the public interest." *See* 47 C.F.R. § 1.429(b)(3).

[6] This method would be more consistent with the Part 32 regulations, which were designed so that a company's financial accounts did not reflect allocations. *See* 47 C.F.R. § 32.2(c).

retail subaccounts when the Commission is still considering various proposals (including proposals "to create new accounts, or subaccounts, to better track costs associated with specific UNEs, such as loops and switching," *Report and Order*, n. 111) that could reshuffle Class A accounting, and soon make the Account 6620 wholesale/retail subaccounts obsolete.

Well before the Account 6620 wholesale/retail subaccount rules are set to take effect, Petitioners will have to spend a considerable amount of time and money getting the systems and processes in place in order to be ready to report at the subaccount level. If the Commission ultimately grants this PFR, but does not do so until at or near the time when the subaccounts would have become effective, Petitioners would have been forced to undertake all of this preparatory work for nothing. For that reason, Petitioners request that the Commission enter an interim order now that delays the implementation of any rules regarding the wholesale and retail subaccounts until six months after the report in the Federal Register of the Commission's decision on the PFR, and preferably after it has reached its decision on Phase 3.[7]

II. The Commission Should Change the Reporting Requirement for Loop Sheath Kilometers Back to Sheath Kilometers

The Commission also should reconsider the new requirement that changes the first section in Table II of the ARMIS 43-07 Infrastructure Report from total "Sheath Kilometers" to "Loop Sheath Kilometers." *Report and Order*, ¶ 170. This change requires Petitioners to separate total sheath length into separate loop and non-loop

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[7] Of course, if the Commission ordered Petitioners to undertake the more costly and time-consuming segregation of expenses, instead of the allocation method, pursuant to BellSouth's estimates, Petitioners would require an 18 month delay between the Commission's ruling and final implementation.

portions. The Commission has not stated why this change would be necessary in the public interest, and it requests the Petitioners to report information that they cannot gather through existing systems.

The Commission has not articulated any reason why it would be "necessary in the public interest" to change "Sheath Kilometers" to "Loop Sheath Kilometers." Although the Commission concluded "that this information would be more useful for policymakers and interested parties if it were narrowed to local loop facilities connecting customers to their service office," it did not articulate what the information would be used for, or why "loop" measurement would be more useful than total sheath kilometers. *Report and Order*, ¶ 170.[8]

The Commission failed to articulate a public interest justification for the new requirement because there is none. Loop sheath kilometers are not "useful" as a measure of competition, in large part because only certain Class A ILECs – and no CLECs – are required to report this data. And other data that is already being reported – such as number of loop lines – is sufficient to satisfy any regulatory need for loop information.[9]

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[8] In the *Phase 2 NPRM*, the Commission noted in general that information from the ARMIS 43-07 and 43-08 reports "provide information about the make-up and operating capability of nearly 95 percent of the country's public local exchange telephone network" which is "useful" and "provides critical data," and that "monitoring through ARMIS has provided us with information to assess the condition of the country's network infrastructure and has permitted us to make informed decisions to protect against degradations and outmoded network capabilities." *Phase 2 NPRM*, ¶¶ 64-65. However, the Commission did not state why continuing to require Petitioners to provide data regarding "sheath kilometers" would be "necessary in the public interest," and certainly did not articulate any reasons why it would be "necessary in the public interest" to require Petitioners to put in new processes to measure and collect loop sheath kilometers. *See id.*

[9] *See, e.g.,* ARMIS 43-01, Table II (requiring reporting of access lines); *Local Telephone Competition: Status as of June 30, 2001*, Industry Analysis Division, Common Carrier Bureau (February 2002) (reporting that, according to data collected on Form 477,

The *Report and Order* indicated that this rule change was designed to "*narrow* the collection of data to *only* local loop facilities connecting customers to their serving offices," *Report and Order*, ¶ 170 (emphasis added), implying that the Commission may have believed that changing "Sheath Kilometers" to "Loop Sheath Kilometers" would be a *lesser* reporting burden for Petitioners. That certainly is not the case. Part 32 requires carriers maintain cable investment as aerial, underground, buried, etc. – not as loop or non-loop.

The additional studies that would be required in order to separately calculate loop sheath kilometers are incredibly time consuming. For example, the only way Verizon has determined it could provide an exact accounting of loop sheath kilometers is to look at more than one million individual plats. The plats are paper or Mylar records, usually 22" x 34" in size, similar to architectural blueprints. Verizon would need to obtain information regarding the loop vs. non-loop portion of the sheath from each plat, and then tally the amounts to determine total loop sheath kilometers. Verizon has estimated that it would cost more than $5.5 million dollars to complete such a detailed analysis. There are no benefits of separately recording "loop sheath kilometers" to outweigh the burdens Petitioners will face in trying to generate data that currently does not exist in any systems.

III. Broadband Infrastructure Reporting Should Occur through Form 477, Rather than through ARMIS

The Commission ordered that four new areas of information related to broadband infrastructure be added to the ARMIS 43-07 report: "Hybrid Fiber/Metallic Loop Interface Locations," "Switched Access Lines Served from Interface Locations," "Total

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CLECs "reported providing about one-third of switched access lines over their own local loop facilities.")

xDSL Terminated at Customer Premises," and "xDSL Terminated at Customer Premises via Hybrid Fiber/Metallic Interface Locations." *See Report and Order*, ¶ 175 & nn.332-35. The Commission stated that it wants this information in order to "help satisfy an immediate and pressing need to assess the penetration of fiber in the local loop and gauge the development of broadband infrastructure." *Id.*, ¶ 175. Petitioners support the Commission's gathering of information regarding broadband infrastructure. However, in order to protect confidential, proprietary information and avoid duplicative and potentially inconsistent reporting requirements, Petitioners request the Commission order that such information be reported on Form 477, rather than through ARMIS.

The Commission has already recognized that it should take steps to protect information relating to broadband from being disclosed publicly. In considering whether to allow confidential treatment for local competition and broadband reporting, the Commission noted that "several commenters express[ed] concern over the potential for competitive harm that release of the gathered data could cause and, in particular, about the ability of competitors to take the data submitted and tailor market strategies to quash nascent competition, protect areas that are being subjected to increased competition, or deploy facilities to defend strongholds." *Local Competition and Broadband Reporting,* Report and Order, 15 FCC Rcd 7717, ¶ 88 (2000). The Commission thus instituted procedures to make it easier to request confidential treatment of broadband data that was reported, and to aggregate the data for reporting purposes in order to reduce the risk of competitive harm. *Id.*, ¶¶ 87-91.

By ordering data regarding broadband infrastructure to be reported through ARMIS, the Commission has effectively ordered certain Class A carriers to be the sole

public reporters of broadband information. This unequal regulatory treatment is particularly inappropriate for broadband which, as the Commission has recognized, is an intensely competitive field. The leading technology for broadband services is not DSL, but cable modem, and regulators and legislators are considering whether to deregulate broadband entirely, so that telecommunications carriers can compete with cable on an equal playing field. The Commission should not require the Petitioners to report publicly data regarding broadband infrastructure that would give cable broadband providers (and other competitors) yet another regulatory advantage.[10]

Using Form 477 instead of ARMIS has the advantage of allowing the Commission to consider all broadband issues together, so that its decision regarding broadband can be made consistently and globally in one set of proceedings. Using Form 477 instead of ARMIS also avoids subjecting Petitioners to potentially duplicative and conflicting requirements. For example, carriers already report related broadband infrastructure data (*e.g.*, data regarding Asymmetric xDSL and other traditional wireline, including symmetric xDSL) on Form 477, and have claimed confidential treatment for such data. There is no reason to require Petitioners to report the data in another forum, especially one that does not protect proprietary information as confidential.[11]

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[10] For example, the Commission has ordered the ILECs to report the number of DSL lines they provide. *See Report and Order*, at n.334. Although this is reported at the study area level, if an ILEC is concentrating DSL investment in one area of a state, broadband competitors would be able to deduce the ILEC's competitive capabilities.

[11] Petitioners note that in the *Further NPRM*, the Commission has requested that commenters address "whether ARMIS information (particularly infrastructure data) would be better captured through the Local Competition and Broadband Data Gathering Program rather than in ARMIS . . ." *Further NPRM*, ¶ 211. Petitioners request that the Commission defer implementation of the addition of broadband infrastructure to ARMIS 43-07 until after the Commission has issued an order regarding the *Further NPRM*.

Conclusion

Petitioners request that the Commission reconsider its *Report and Order*, as detailed above.

Respectfully submitted,

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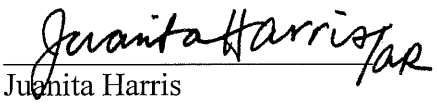

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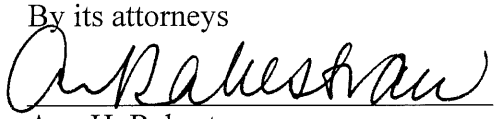

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Attachment A

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.